

## Gross Receipts:

### Washington: Franchisor Owes B&O Tax on Franchisee Income and Doesn't Qualify for Realty Rental Exemption

*Determination No. 18-0105*, Wash. Dept. of Rev. (5/7/24). A ruling issued by the Administrative Review and Hearings Division of the Washington Department of Revenue (Division) concluded that a retail store franchisor was not exempt from Washington business and occupation (B&O) tax on a portion of charges that it had designated to its franchisees as “rental charges” when its franchisees were only granted the authority to do the particular act of operating a store subject to the franchisor’s extensive and detailed restrictions, and they did *not* have an exclusive right of continuous real property possession against the franchisor. Under the facts, the franchisor enjoyed “practically unfettered access” to the franchisee’s stores pursuant to their franchise agreements. The Division explained that the B&O tax “Rule 118” exemption for the lease of real estate did not apply to the facts at hand, because the franchisor was *not* truly leasing the store property to its franchisees in these transactions. Please contact us with any questions.

**URL:** <https://dor.wa.gov/sites/default/files/2024-05/43WTD001.pdf>

— Robert Wood (Seattle)  
Principal  
Deloitte Tax LLP  
robwood@deloitte.com

Myles Brenner (Seattle)  
Senior Manager  
Deloitte Tax LLP  
mybrenner@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).